

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SKI BOWL REALTY MEMBER LLC,

Plaintiff,

-against-

DAVID C. CRIKELAIR and
THOMAS P. DOUGHERTY, JR.,

NOTICE OF MOTION

Civil Case No. 12-CV-4607
(PGG) (ECF CASE)

Defendants.

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, Affidavit of Thomas P. Dougherty, Jr. dated September 10, 2012, and all prior pleadings and proceedings herein, Defendants David C. Crikelair and Thomas P. Dougherty, Jr. shall move this Court on a date and time designated by the Court, at the United States Courthouse, 500 Pearl Street, New York, New York, 10007, before the Honorable Paul G. Gardephe, United States District Judge, for an Order pursuant to Rule 12(b)(7) of the Federal Rules of Civil Procedure dismissing the Complaint filed June 13, 2012 in its entirety on the grounds that (1) Plaintiff failed to join necessary and indispensable parties and (2) the venue is improper.

Dated: Albany, New York
September 10, 2012

/S/ Jeffrey J. Sherrin

Jeffrey J. Sherrin, Esq. (Bar No. JS5129)

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